

ARTICLE 339

Occupation Privilege Tax

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339.01 SHORT TITLE.

This article shall be known and may be cited as the "Occupation Tax Ordinance." (Ord. 2020 §1. Passed 12/30/66 and Ord. 2925 Passed 2/7/84.)

339.02 DEFINITIONS.

The following words and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context or language clearly indicates or requires a different meaning:

(a) "Individual" means any person, male or female, engaged in any occupation, trade or profession within the corporate limits of the City.

(b) "Occupation" means any trade, profession, business or undertaking of any type, kind or character, including services, domestic or other, carried on or performed within the corporate limits of the City for which compensation is charged or received, whether by means of salary, wages, commissions or fees for services rendered.

(c) "Employer" means an individual, partnership, association, corporation, governmental body, agency or other entity employing one or more persons on a salary, wage, commission or other compensation basis, including a self-employed person.

(d) "Tax" means the Occupation Privilege Tax in the amount of ten dollars (\$10.00) levied by this article.

(e) "Treasurer" means the Treasurer of the City.

(f) "Administrator" means the Business Administrator of the City under whose direction this tax shall be enforced.

(g) "Fiscal year" means the period beginning January 1 and ending December 31 of each calendar year. (Ord. 2994 §4. Passed 5/7/85.)

(h) "City" means the area within the corporate limits of the City of Bethlehem.

(i) "He," "his" or "him" means and indicates the singular and plural number, as well as the male, female and neuter gender. (Ord. 2020 §2. Passed 12/30/66.)

339.03 LEVY.

For general revenue purposes, a tax is hereby levied upon the privilege of engaging in an occupation within the corporate limits of the City during the fiscal year of 1967. Each natural person who exercises such privilege for any length of time during the year shall pay a tax in the amount of ten dollars (\$10.00), in accordance with the provisions of this article. This tax is in addition to all other taxes of any kind or nature heretofore levied by the City. (Ord. 2020 §3. Passed 12/30/66.)

339.04 DUTY OF EMPLOYERS.

Each employer within the City, as well as those employers situated outside the City but who engage in business within the City, is hereby charged with the duty of collecting from each employee engaged by him and performing for him within the City such tax of ten dollars (\$10.00) per annum and with making a return and payment thereof to the Treasurer.

Further, each employer is hereby authorized to deduct this tax from each employee in his employ, whether such employee is paid by salary, wages or commission, and whether or not part or all of such services are performed within the City. (Ord. 2020 §4. Passed 12/30/66.)

339.05 RETURNS.

Each employer shall prepare and file a return showing a computation of the tax on forms to be supplied to him by the Bureau of Taxes, 10 E. Church Street, Bethlehem, Pennsylvania. Each employer, in filing this return and making payment of the tax withheld from his employees, shall be entitled to retain a commission calculated at the rate of two percent of the gross tax due and payable, provided that such tax is collected and paid over by the employer on or before the dates hereinafter set forth. It is further provided that if the employer fails to file such return and pay such tax, whether or not he makes collection thereof from the salary, wages or commissions paid by him to such employee, the employer shall be responsible for the payment of the tax, in full, without deducting a commission and as though the tax had originally been levied against him. (Ord. 2994 §4. Passed 5/7/85.)

339.06 DATES FOR DETERMINING TAX LIABILITY AND PAYMENT.

Each employer shall use his employment records from January 1 to March 31 of each fiscal year, for determining the number of employees from whom such tax shall be deducted and paid over to the Treasurer on or before April 30 of each fiscal year.

Supplemental reports and payment of tax due thereon shall be made by each employer on July 31 and October 31 of the same fiscal year, and on January 31 of the succeeding fiscal year, of new employees as reflected on his employment records from April 1 to June 30, July 1 to September 30, and October 1 to December 31 of each fiscal year. Payment of tax due on these supplemental reports shall be made on July 31 and October 31 of the same fiscal year, and on January 31 of the succeeding fiscal year, respectively. (Ord. 2994 §4. Passed 5/7/85.)

339.07 SELF-EMPLOYED INDIVIDUALS.

Each self-employed individual who performs services of any type or kind, engaged in any occupation or profession within the City, shall be required to comply with this article and pay the tax to the Treasurer on April 30 of each fiscal year, or as soon thereafter as he engages in an occupation. (Ord. 2994 §4. Passed 5/7/85.)

339.08 INDIVIDUALS ENGAGED IN MORE THAN ONE OCCUPATION.

(a) Each individual who shall have more than one occupation within the City shall be subject to the payment of this tax on his principal occupation, and his principal employer shall deduct this tax and deliver to him evidence of deductions on a form to be furnished to the employer by the Bureau of Taxes, which form shall be evidence of deduction having been made, and when presented to any other employer shall be authority for such employer to not deduct this tax from the employee's wages, but to include such employee on his return by setting forth his name, address and the name and account number of the employer who deducted this tax. (Ord. 2994 §4. Passed 5/7/85.)

(b) In the event a person is engaged in more than one occupation, or an occupation which requires his working in more than one political subdivision during the calendar year, the priority of claim to collect such Occupation Privilege Tax shall be in the following order: first, the political subdivision in which a person maintains his principal office or is principally employed; second, the political subdivision in which the person resides and works, if such a tax is levied by that political subdivision; third, the political subdivision in which a person is employed and which imposes the tax nearest in miles to the person's home. The place of employment shall be determined as of the day the taxpayer first becomes subject to the tax during the calendar year. It is the intent of this provision that no person shall pay more than ten dollars (\$10.00) in any calendar year as an Occupation Privilege Tax, irrespective of the number of the political subdivisions within which such person may be employed within any given calendar year. In case of dispute, a tax receipt of the taxing authority for that calendar year declaring that the taxpayer has made prior payment shall constitute prima facie certification of payment to all other political subdivisions. (Ord. 2020 §8. Passed 12/30/66.)

339.09 EMPLOYERS AND SELF-EMPLOYED INDIVIDUALS RESIDING OUTSIDE THE CITY.

All employers and self-employed individuals residing or having their place of business outside of the City but who perform services of any type or kind, or engage in any occupation or profession within the City, do, by virtue thereof, agree to be bound by and subject themselves to the provisions, penalties and regulations promulgated under this article with the same force and effect as though they were residents of the City. Further, any individual engaged in an occupation within the City, and an employee of a nonresident employer, may, for the purpose of this article, be considered a self-employed person, and in the event this tax is not paid, the City shall have the option of proceeding against either the employer or employee for the collection of this tax as hereinafter provided. (Ord. 2020 §9. Passed 12/30/66.)

339.10 EXEMPTION.

Any individual who derives income of less than one thousand dollars (\$1,000) per year from his occupation shall be entitled to a refund of tax paid by him or withheld from him by his employer, and may file a claim for refund on such form as may be prescribed by the Administrator. (Ord. 2020 §10. Passed 12/30/66.)

339.11 ADMINISTRATION OF TAX.

(a) It shall be the duty of the Treasurer to accept and receive payments of this tax and to keep a record thereof showing the amount received by him from each employer or self-employed person, together with the date the tax was received.

(b) The Administrator is hereby charged with the administration and enforcement of this article, and is hereby charged and empowered to prescribe, adopt and promulgate rules and regulations relating to any matter pertaining to the administration and enforcement of this article, including provisions for the examination of the payroll records of any employer subject to this article, the examination and correction of any return made in compliance with this article and any payment alleged or found to be incorrect or as to which overpayment is claimed or found to have occurred,

or any payment made by a taxpayer who is engaged in a business or occupation, or businesses or occupations, from which he derives less than one thousand dollars (\$1,000) per year. Any person aggrieved by any decision of the Business Administrator shall have the right to appeal to the Court of Common Pleas of Northampton County as in other cases provided.

(c) The Administrator, or his duly appointed delegates, is hereby authorized to examine the books and payroll records of any employer in order to verify the accuracy of any return made by an employer, or, if no return was made, to ascertain the tax due. Each employer is hereby directed and required to give the Administrator the means, facilities and opportunity for such examination. (Ord. 2994 §4. Passed 5/7/85.)

339.12 SUITS FOR COLLECTION.

(a) In the event that any tax under this article remains due or unpaid thirty days after the due dates above set forth, the Administrator may sue for the recovery of any such tax due or unpaid under this article, together with interest and penalty.

(b) If for any reason the tax is not paid when due, interest at the rate of six percent on the amount of such tax shall be calculated, beginning with the due date of such tax, and a penalty of five percent shall be added to the flat rate of such tax for nonpayment thereof. Where suit is brought for the recovery of this tax, the individual liable therefor shall, in addition, be responsible and liable for the costs of collection. (Ord. 2020 §12. Passed 12/30/66.)

339.13 VALIDITY.

The provisions of this article are severable, and if any of its provisions shall be held invalid or unconstitutional, the decision of the court shall not affect or invalidate any of the remaining provisions. It is hereby declared to be the legislative intent that this article would have been adopted if such illegal, invalid or unconstitutional provision had not been included herein. (Ord. 2020 §14. Passed 12/30/66.)

339.14 SAVING CLAUSE.

(a) Nothing contained in this article shall be construed to empower the City to levy and collect the tax hereby imposed on any occupation not within the taxing power of the City under the Constitution of the United States and the laws of the Commonwealth of Pennsylvania.

(b) If the tax hereby imposed under the provisions of this article shall be held by any court of competent jurisdiction to be in violation of the Constitution of the United States or the laws of the Commonwealth of Pennsylvania as to any individual, the decision of the Court shall not affect or impair the right to impose or collect such tax, or the validity of the tax so imposed on other persons or individuals as herein provided. (Ord. 2020 §15. Passed 12/30/66.)

339.99 PENALTY.

Whoever makes any false or untrue statement on any return required by this article, or who refuses inspection of the books, records or accounts in his custody and control setting forth the number of employees subject to this tax who are in his employment, or whoever fails or refuses to file any return required by this article shall, upon conviction before any alderman or magistrate, be sentenced to pay a fine for each offense of six hundred dollars (\$600.00), or imprisoned not more than ninety days, or both. It is further provided that the action to enforce the fine and penalty herein provided may be instituted against any person in charge of the business of any employer who has failed or refuses to file a return required by this article. (Ord. 2020 §13. Passed 12/30/66; Ord. 3242-Passed 2/7/89)